

(C) an anti-smoking drug in an amount effective to aid in the reduction or cessation of said tobacco smoker's craving to smoke tobacco.

Please withdraw the previous cancellation of claims 7, 8, 17 and 18. Please add new claims 21-24:

21. The method of claim 1, wherein said anti-smoking drug is an antidepressant.

22. The method of claim 21, wherein said antidepressant is lobelia.

23. The product of claim 11, wherein said anti-smoking drug is an antidepressant.

24. The product of claim 23, wherein said antidepressant is lobelia.

REMARKS

Claims 1, 6, 11 and 16 are pending in the application. Claims 1 and 11 stand rejected in light of Cooper et al.

Claims 1 and 11

Amendments are made to elements (A) and (C).

Element (A) - "an educational program"

Cooper cannot anticipate claims 1 and 11 because Cooper fails to teach an essential claim element.

The claims require three elements: "(A) education...; (B) hypnosis, to use the unconscious mind to stop smoking; and (C) nutritional supplements addressing the nutritional challenges with regard to stopping smoking." Specification at 1. These three elements act on "the conscious mind, the unconscious mind, and the body." Id.

B

The unconscious mind is programmed using repetition of stimuli, to take the subject toward pleasure and away from pain. Id. at 7. The Specification discusses numerous methods for programming the unconscious, id. at 7-10. Methods of programming the unconscious mind are referred to as "hypnosis." In the preferred embodiment, such hypnosis involves, for example, negative conditioning. Id. at 8. ("hypnosis focuses on interrupting 'conditioned responses' generally, and specifically, on interrupting the response to smoke").

Conditioning is "A process of behavior modification by which a subject comes to associate a desired behavior with a previously **unrelated** stimulus." American Heritage Dictionary (2000) (available at www.dictionary.com). Conditioning was discovered by I.P. PAVLOV, who trained dogs to perform an unconscious response (salivation) in response to an unrelated stimulus (a bell). On-Line Medical Dictionary (12 Dec 1998).

Cooper teaches a "negative conditioning" apparatus. Conditioning is a method of programming unconscious response. It is not an educational program for the conscious mind. The claims have been amended to clarify that "conditioning" is a type of hypnosis, not a type of education.

Element (C) - "lobelia"

Element C is broadened to encompass equivalents of lobelia literally.

5 The Specification teaches that lobelia is an antidepressant acetylcholine receptor binder. Specification at 13-15. The Specification teaches other examples of antidepressants, id. at 18 (gotu kola extract; kava kava root).

10 It is known in the art that antidepressants can be used as stop-smoking drugs. For example, bupropion hydrochloride is sold as both an antidepressant (commercially available under the trademark WELLBUTRIN® from Glaxo-Wellcome Inc., Chapel Hill, North Carolina) and a stop-smoking drug (commercially available under the trademark ZYBAN® from Glaxo-Wellcome Inc., Chapel Hill, 15 North Carolina). Physicians' Desk Reference at 1277 et seq. (1999). Antidepressants "produce[] a calming effect within the body, thereby relieving the stress associated with nicotine withdrawal symptoms." Specification at 18, 20 lines 8-9. This probably explains why individuals quitting smoking feel better when taking an anti-smoking drug. Id. at 15, lines 12-14.

25 Accordingly, element (C) is broadened to encompass stop-smoking drugs generally, and dependent claims 21-24 are added to recite lobelia specifically.

Claims 7, 8, 17 and 18

These claims were previously rejected as allegedly non-enabled under Section 112, first paragraph. The claims were then withdrawn based on the understanding that the remaining claims would proceed to prompt allowance. The 24 Oct 2001 Office Action moots the reason to have withdrawn these claims.


These claims comply with 35 USC 112. Claims 7 and 17 recite "at least one weight-control product." Claims 8 and 18 require the weight control product to include a stimulant.

Weight control products ("anorexants"), the use of CNS stimulants as such, and the therapeutically effective amounts, are known nearly universally in the United States. See e.g., The Merck Manual at 2492-93 (1987) ("CNS stimulants are used to ... suppress the appetite. *** The failure of most obese patients to lose weight satisfactorily by attempting to decrease food intake alone has led to widespread use of anorexants. Amphetamine and related compounds ... are most effective for the first 3 to 6 wk."). CNS stimulants which are used as anorexants include amphetaminil, benzphetamine, chlorphentermine, clortermine, dextroamphetamine sulfate, diethylpropion, n-ethylamphetamine, mazindol, methamphetamine, and others. See The Merck Index (1996). The Specification need not disclose subject matter already common knowledge in the art.

SUMMARY

All pending claims are believed patentable over
the art. Prompt allowance is respectfully requested.

Respectfully Submitted,


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Enclosures:

Physicians' Desk Reference (1999) select pages
Merck Index (1995) select pages
Merck Manual select pages

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